

STATE OF MICHIGAN
DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES
CORPORATION, SECURITIES AND LAND DEVELOPMENT BUREAU

In the Matter of:

Limited Registration of Canadian Broker-Dealers and Agents

GENERAL EXEMPTION ORDER

WHEREAS, the Michigan Corporation, Securities and Land Development Bureau (the "Bureau") is charged with the administration of the Michigan Uniform Securities Act, 1964 PA 265, as amended (the "Act") and the Michigan Securities Rules; and

WHEREAS, Section 412(a) of the Act provides in part that "the administrator may from time to time make, amend, and rescind...orders as are necessary to carry out the provisions of this Act..."; and

WHEREAS, Section 202(a) of the Act states that: "A broker-dealer, principal, commodity issuer, agent, or investment adviser may obtain an initial registration by filing with the administrator an application together with a consent to service of process pursuant to Section 414(g). The application shall contain whatever information the administrator by rule requires..."; and

WHEREAS, the Bureau acknowledges that an attempt by a Canadian broker-dealer or agent to service a pre-existing Canadian client or account of such client, who is temporarily present in this state, would constitute a transaction requiring that the broker-dealer or agent be registered under Section 201 of the Act; and

WHEREAS, the Bureau acknowledges that Canadian Registered Retirement Savings Plans must be sited in Canada with a Canadian trustee and that the securities held in such retirement plans must be predominantly Canadian in order to maintain the beneficial tax treatment given such plans under Chapter 1, Section 146 of the Income Tax Act of Canada; and

WHEREAS, the Bureau finds that the full registration of Canadian broker-dealers and agents is not necessary or appropriate in the public interest and for the protection of investors; provided such broker-dealers and agents are registered under and subject to Canadian regulatory authorities; and provided further that such broker-dealers and

agents are not present in Michigan or an office of, branch of, or a natural person associated with, a broker-dealer otherwise registered in Michigan.

NOW, THEREFORE, IT IS HEREBY ORDERED, pursuant to Section 412(a) and 202(a) of the Act, that:

- (1) A Canadian broker-dealer that is resident in Canada and has no office or other physical presence in Michigan and is not an office of, branch of, or a natural person associated with, a broker-dealer otherwise registered in Michigan may, provided the broker-dealer is registered in accordance with this order, effect transactions in securities with or for, or induce or attempt to induce the purchase or sale of any security by,
 - (a) a person from Canada who is temporarily present in this state and with whom the Canadian broker-dealer had a bona fide broker-dealer-client relationship before the person entered this state; or
 - (b) a person from Canada who is present in this state, whose transactions are in a self-directed tax advantaged retirement plan in Canada of which the person is the holder or contributor.
- (2) To register under this Order the Canadian broker-dealer must:
 - (a) File with the administrator:
 - (i) A notice in the form of the broker-dealer's current application for registration required by the jurisdiction in which that broker-dealer's office is located, and
 - (ii) A consent to service of process pursuant to Rule 814.1;
 - (b) Be a member in good standing of a self-regulatory organization or stock exchange in Canada;
 - (c) Maintain effective registration as a broker-dealer in good standing in the jurisdiction from which it is effecting transactions into this state and files evidence thereof; and
 - (d) Pay the fee as specified in Section 202(b) and Rule 602.4.
- (3) If no denial order is in effect and no proceeding is pending under Section 204 of the Act, registration becomes effective on the 30th day after an application is filed, unless made effective earlier by the administrator.
- (4) A Canadian broker-dealer registered under this Order shall:
 - (a) Maintain its registration in the jurisdiction in which that broker-dealer's head office is located and also maintain its membership in a Canadian self-regulatory organization or stock exchange in good standing;
 - (b) Provide the administrator upon request with its books and records relating to its business in the state as a broker-dealer;
 - (c) Inform the administrator forthwith of any criminal action taken against it or of any finding or sanction imposed on the broker-dealer as a result of any self-regulatory or regulatory action involving fraud, deceit, misrepresentation or similar conduct;
 - (d) Disclose to customers in this state that they and their agents are not subject to the full regulatory requirements of the Act; and
 - (e) Only effect transactions in this state

- (i) as permitted in (1)(a) and (b); and
 - (ii) with or through
 - (A) the issuers of the securities involved in the transactions,
 - (B) other broker-dealers, and
 - (C) banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees.
- (5) A Canadian broker-dealer or its agents, in effecting transactions pursuant to this Order, is exempt from all requirements of the Act, except as specified in this Order.
- (6) The denial, suspension or revocation of the registration of a Canadian broker-dealer will occur only for a breach of the provisions of Sections 101, 102 and 103 of the Act or the requirements of this Order.

IT IS FURTHER ORDERED, that:

- (1) An agent who will be representing a Canadian broker-dealer registered and transacting business in this state pursuant to this Order may register pursuant to Section 201; provided that:
 - (a) The agent files with the administrator:
 - (i) a current application for registration in the form required by the jurisdiction in which that agent is registered, and
 - (ii) a consent to service of process pursuant to Rule 814.1;
 - (b) The agent is continuously registered in good standing in the appropriate Canadian jurisdiction and informs the administrator of any criminal action, taken against him or her, or of any finding or sanction imposed on the agent as a result of any self-regulatory or regulatory action involving fraud, deceit, misrepresentation or similar conduct.
 - (c) Pay the fee as specified in Section 202(b) and Rule 602.4.
- (2) If no denial order is in effect and no proceeding is pending under Section 204, registration becomes effective on the 30th day after an application is filed, unless made effective earlier by the administrator.
- (3) An agent registering under this Order must disclose to customers in this state that they and their Canadian broker-dealer are not subject to the full regulatory requirements of the Act.
- (4) An agent registering under this Order may only effect transactions in this state as permitted in (1)(a) and (b) and (4)(e)(ii).
- (5) Nothing in this Order shall affect the duties of the Canadian agent, effecting transactions under this Order, from the provisions of Sections 101, 102 and 103 of the Act and any rules promulgated thereunder.

IT IS FURTHER ORDERED, that nothing in this Order shall preclude a broker-dealer or their agents from relying upon any other applicable exemption, nor shall this Order relieve such persons from their liability under Sections 101, 102 and 103 of the Act.

IT IS FURTHER ORDERED, that transactions by Canadian broker-dealers and their agents as described in this Order will be deemed not to involve the "offer" or "sale" of a security as those terms are defined in Section 401(j)(1) and (2), for purposes of compliance with Section 301. Nothing in this Order shall affect the duty of the Canadian broker-dealer and its agents to comply with Section 101 of the Act.

IT IS FURTHER ORDERED, that this Order shall remain in effect until amended or rescinded by the Bureau.

Signed by
Carl L. Tyson, Director
Corporation, Securities and Land Development Bureau
6546 Mercantile Way
P.O. Box 30222
Lansing, MI 48909

Dated: September 27, 1996
Lansing, Michigan